

**GOVERNMENT
EXHIBIT**

PENGAD-Bayonne, N

FILED
JUN 15 PM 03
CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JUL 13 1996
RECEIVED
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

In the District of the South
of

SABO Regeneras West, 4449
San Diego, California 92112

Upon motion of the UNITED STATES OF AMERICA, and good cause appearing,

IT IS HEREBY ORDERED that the search warrant, and the application and affidavit for search warrant, and this order be sealed until further order of the court.

IT IS FURTHER ORDERED that a copy of the search warrant may be left at the premises searched.

DATED: June 15, 1997

Presented by:
JAMES P. HEALTY
JAMES P. HEALTY Attorney
[Signature]
WYNNE D. GIBSON
Assistant U.S. Attorney

[Signature]
MARSHALL EUGEN B. BROOKS
United States Magistrate Judge

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 06/25/2007

SHAWN HOGAN, date of birth [REDACTED] 1975, California Drivers License Number [REDACTED], residing at 8465 Regents Road, Apartment #448, San Diego, California, met the writing agent at Starbucks Coffee, 9211 Clairmont Mesa Boulevard #101, San Diego, California.

The writing agent returned one Seagate hard drive, serial number 3KN1HXX, to SHAWN HOGAN. HOGAN and the writing agent both signed the FD-597, Receipt for Property, documenting the return of the hard drive.

Investigation on 06/21/2007 at San Diego, CA

File # [REDACTED]Date dictated by SA TODD WALBRIDGE **GOVERNMENT
EXHIBIT**

FENGAD-Regione, N. J.

10

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[REDACTED]

USA00514

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property Received/Returned/Released/Seized

File # 288A-SF-141681On (date) 06/21/2007

item(s) listed below were:

- ☐ Received From
☒ Returned To
☐ Released To
☐ Seized

(Name) Shawn Hagen(Street Address) @ Starbucks - 9211 Clairmont Mesa Blvd.(City) San Diego, CADescription of Item(s): ① Seagate Hard Drive model #ST3146854LC,
SN # 3KN1HXXReceived By: [Signature]
(Signature)Received From: [Signature]
(Signature)

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 08/15/2007

SHAWN HOGAN, who is known to the writing agent through previous contact, was met at the Federal Bureau of Investigation (FBI) in San Diego, California in order to return evidence originally seized during the execution of a search warrant for the San Jose Resident Agency (RA), San Francisco Division.

The following items were returned to HOGAN:

1B6 - One Apple Monitor, Serial Number (S/N) CY5400GKPKM.

1B8 - One Apple Cinema Display Monitor, S/N CY205198JU8.

1B9 - Three Apple keyboards, One Apple webcam, and one Apple mouse.

HOGAN signed the FD-597 documenting the return of the evidence.

Investigation on 08/13/2007 at San Diego, CA

File #

SA TODD WALBRIDGE/tw

Date dictated

by

SA TRAVIS F. JOHNSON

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USA00516

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property Received/Returned/Released/Seized

File # 288A-SF-141681On (date) 08/13/2007

item(s) listed below were:

- ☐ Received From
☒ Returned To
☐ Released To
☐ Seized

(Name) Shawn Hagen(Street Address) 8465 Regents Road, #448, San Diego, CA 92122(City) San Diego, CA 92122

Description of Item(s): ① 1 Apple Monitor, Serial Number CY5400GKPKM
② 1 Apple Cinema Display ⁽¹²⁾ ~~Monitor~~ Monitor, Serial Number CY205198J08 ③ ~~Serial Number~~
③ 3 Apple Keyboards, 1 Apple webcam and 1 Apple Mouse

Received By: [Signature]
(Signature)Received From: [Signature]
(Signature)

30

Re: Photo

digitalpoint.shawn@gmail.com [digitalpoint.shawn@gmail.com] on behalf of Shawn Hogan
[shawn@digitalpoint.com]

Sent: Wednesday, August 29, 2007 12:08 PM

To: Adams, Melanie

Yep... that's him.

On 8/29/07, **Adams, Melanie** <Melanie.Adams@ic.fbi.gov> wrote:
Shawn:

Please review the attached photo to determine if this is the eBay employee that spoke to you at the 2006 eBay LIVE conference in Las Vegas.

Thanks

Special Agent Melanie Adams
Federal Bureau of Investigation
1919 South Bascom Avenue, Suite 400
Campbell, CA 95008
408-369-8900



<https://www.324mail.com/owa/?ae=Item&a=Print&t=IPM.Note&id=RgAAAAALi%2bI...> 10/24/2007

USA00519

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 03/18/2009

On March 17, 2009, Special Agent Melanie Adams received via U.S. Postal a letter dated March 10, 2009 from Shawn Hogan, P.O. Box 5020, Rancho Santa Fe, California, 92067. The letter requested that the Federal Bureau of Investigation return all outstanding materials that have not yet been returned which were seized in June 2007 from 8465 Regents Road #448, San Diego, California, 92122. The letter further indicated that Hogan is represented by legal counsel, Coast Law Group, LLP, Seyamack Kouretchian, Esq. and Ross M. Campbell, Esq., located at 169 Saxony Road, Suite 204, Encinitas, California, 92024, email address Seyamack@coastlawgroup.com, rcampbell@coastlawgroup.com, telephone 760-942-8505, facsimile 760-942-8515. In addition, the letter requested that all future correspondence, inquiries and/or communications of any kind relating to any outstanding investigation be directed to Coast Law Group LLP including those related to the request to return the items seized from him.

The above referenced letter has been attached and made a part of this document.

Investigation on 03/17/2009 at Campbell, CaliforniaFile # [REDACTED] Date dictated NAby SA Melanie Adams

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

USA00523

Shawn Hogan
P.O. Box 5020
Rancho Santa Fe, CA 92067

March 10, 2009

Federal Bureau of Investigation
Attn: Special Agent Melanie Adams
450 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102

Via U.S. Mail

Re: Shawn Hogan
Return of Seized Documents
Retention of Legal Counsel

Dear Special Agent Adams:

In June of 2007, the Federal Bureau of Investigation seized a number of documents, computers, and materials in my possession at 8465 Regents Road, #448, San Diego, California 92122. This is to request the return of all outstanding materials that have not yet been returned.

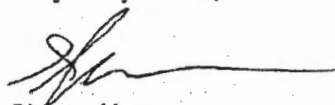
This is to further inform you that I am represented by legal counsel, as follows:

Coast Law Group, LLP
Seyamack Kouretchian, Esq.
Ross M. Campbell, Esq.
169 Saxony Road, Suite 204
Encinitas, CA 92024

Seyamack@coastlawgroup.com
Rcampbell@coastlawgroup.com
Tel: 760.942.8505
Fax: 760.942.8515

Please direct any and all future correspondence, inquiries and/or communications of any kind relating to any outstanding investigation to Coast Law Group LLP, including those pertaining to the above-referenced request, as I hereby authorize Coast Law Group LLP to communicate with the FBI and any other applicable governmental entities on my behalf. Thank you for your assistance with this matter.

Very Truly Yours,


Shawn Hogan

USA00524

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What Does Carmen Electra, Cyber-Terrorism and Meg

Whitman Have In Common? eBay!

★ ★ ★ ★

by **digitalpoint** , Aug 2nd 2010 at 10:41 am (75488 Views)

39 Comments

I haven't said much about it to date about the dealings between myself and eBay, because well... I didn't see a point. But now with people's imaginations running wild about what did (and didn't) happen, I suppose I'll talk about it. The story itself is far more interesting than you would think possible within an affiliate program.

The Beginning

I started doing things with the eBay affiliate program in the fall of 2004. On October 20, 2004, I decided I would see if I could rank well for one of the "holy grail" SEO keywords... "eBay". On November 9, 2004, I was in the top 10 in Google for "ebay"... specifically I was #9 (at the time, the top 50 results were just the various official eBay sites for various countries). On December 10, 2004, I held the #4 *and* #5 position in Google for the keyword "eBay" and this was a position I held in Google until April, 2006 (when Google updated their algorithm, and I no longer cared about the ranking). I also held the #1 spot for other things like, "eBay Registration" (even higher than ebay.com's registration page). The rankings were partially done with the Co-op Ad Network. People saw me outranking eBay's own domain for the keyword "eBay" and in December of 2004 the Ad Network exploded in popularity. All of a sudden we had hundreds of millions of pages on the Internet serving billions of Ad Network ads every day.

I got the attention of eBay because my affiliate income was going crazy and they assigned someone to be my "go to" person for anything I needed within the eBay program. This person was assigned to me in early 2005.

Personally I was more than happy with the income I was getting as an eBay affiliate, but eBay was not and helped me come up with new/innovative ideas for driving more traffic to eBay.

Spring 2005

Due to the overwhelming popularity and reach of the Ad Network, eBay came up with the idea in the spring of 2005 that we should use our ad network for more than just helping people rank well in search engines. The logic was that we are serving billions of ads every day, so why not use it as a traditional advertising delivery system? It made sense, so we tried it out by using a small percentage of the Ad Network ad space to serve up tens of millions of eBay ads every day that ultimately were affiliate links. Affiliate income jumped another 300% around that time (as expected).

The Promise Made

At this time, the eBay contact that was assigned to me was constantly complaining about how they need to get a new car because their car was crappy. I finally got tired of continuously hearing about their crappy car and promised that I would buy them a new car if I ever made over

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Join Date:

Mar 2004

Location:

San Diego, California

Age:

36

Posts:

30,384

Blog Entries:

4

Library

August 2012						
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22	23	24	25	26	27	28
29	30	31	1	2	3	4
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What Does Carme



\$1M/month, but they could never talk about their car again starting now. I honestly never thought I would make anywhere remotely close to \$1M/month at this point, so it was an easy way just to get them to shut up about their car.

Summer 2005

eBay was pleased... they were getting massive amounts of traffic and it sure made their affiliate program look good. In the summer of 2005, eBay decided it needed more traffic from me. I told eBay I couldn't drive any more traffic. They responded that I should "experiment" with what they deemed "grey area" things (this is what eBay called anything that violated their terms of service).

At this point, things started to seem strange to me. eBay was paying affiliates millions per month, when they had no competition... for the most part it was traffic they would receive anyway. And why was eBay *happy* (and they were) that I was outranking them for their own company name and paying me for it? Someone searched Google for "eBay", came to my site and I would send them to ebay.com to get affiliate revenue. Finally I confronted eBay about it all. I told them numerous times that I didn't understand even why they HAD an affiliate program, and that I would gladly do what I do for them for 1% of what they were paying me. The response I was met with with ultimately was (and I quote), "Well don't tell anyone that. Why do you not like 'Free money'?"

When I asked them why they would knowingly allow affiliates to violate their terms of service, they were very good at avoiding answering my actual question. Finally after pestering them with the same question for weeks, they broke down and informed me that their terms of service (and even the entire affiliate program to some degree) was a bit of a facade. It allowed eBay to do things they wanted to do (like spam search engines, deploy in countries where they had no actual presence, etc.), while also giving them a way to wash their hands of any wrong-doing when any of their large partners (like Google) would question them about it (like why there are so many spam sites directing people to eBay). They could simply say, "It's our affiliates, and they are violating the terms of service we set forth." To me, I suppose it sort of made sense and I stopped questioning them about it. BTW, one of the times this was explained to me was at PubCon in Las Vegas, *while* an eBay employee was going around to each public access computer with a USB dongle he developed that would automatically install something that would redirect any user to eBay when they tried to access Yahoo Auctions.

I was informed by eBay that they understood that in order to keep the interest of their large affiliates and keep them creative/innovative they allowed them to experiment with doing pretty much anything as long as the affiliate let them know if they put something into large-scale deployment and it violated their terms of service. So in the summer of 2005 I played around with all sorts of things (most things did not violate their terms of service, and most things were ultimately bad ideas for driving a decent amount of traffic). One of the things that was toyed with was a mechanism to force the end user to click through to a site that they didn't actually click on.

I first heard the name Ben Edelman towards the end of the summer. Apparently eBay contracts with Ben to do random compliance checking on their affiliates and issues a monthly compliance report to them. I showed up on his compliance report because this was the time they gave me the go ahead to play with non-compliant things. eBay then proceeded to amend what they told me prior. I was free to do experiment with whatever I wanted, as long as I didn't show up on any outside compliance reports. They said outside compliance was something they had to do as a publicly traded company, but wasn't something they paid much attention to internally. When I first showed up on Ben's compliance report eBay told me it would be best if I just blanket filter (via geo-targeting) the area were Ben worked as well as locations Ben Edelman might be. This included the bay area, Santa Barbara (CJ was located there), Boston, Washington DC as well as an area in upstate New York. eBay even sent me a copy of the "secret monthly compliance report that no one was supposed to know about". The fact that I showed up on his compliance report was a bit irrelevant anyway since I wasn't experimenting with any grey area stuff any longer by the time the report was given so in the end there wasn't anything I needed to change.



Terrorism and Meg Whitman Have In Common? eBay!
Aug 2nd 2010 10:41 am



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Jul 15th 2010 12:33 am



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Protect Yourself
by nagarjunapaluru



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by The8th



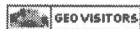
What Does Carmen Electra, Cyber-Terrorism and Meg Whitman Have In Common? eBay!
by JamesColin



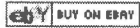
iPhone 4
by 0x00

Geo Visitors

eBay knew how widely used our Geo Visitors tool was (installed on millions of web pages, MySpace profiles, etc.). So they asked me to direct traffic to eBay when someone clicked on the Geo Visitors button that was widely installed, which looked like this:



Instead of sending the user to the map they were expecting, they would end up on eBay (this was done sometimes, not all the time). I actually brought up the point to eBay that this violates their own terms of service... specifically the part of their terms of service that state you can't mislead the end user or trick them into clicking something. After further discussion my eBay rep came back, saying they talked to their legal department and I was in fact correct. Their solution wasn't to stop the traffic though, but instead make the Geo Visitors button display as a small eBay ad instead. Specifically, the Geo Visitors button would sometimes show as:



Personally, I was not okay with this, as it really seemed like a bait and switch... The whole reason I brought up the original implementation as a violation of their terms of service was because I didn't want to do it anymore and was hoping they would stop applying pressure for me to do it. In the end, the pressure eBay put to leave it as a "sometimes" eBay ad won out. And affiliate revenue again nearly doubled.

The Promise Kept

This was also the time that my affiliate revenue from eBay broke over \$1M in a single month, which is significant because now I had to make good on the "promise" that I never thought I would have to follow through on. My eBay contact called me immediately after I broke \$1M in a month and said, "Okay, you broke \$1M... buy me a car." Sadly, I'm a man of my word and I did try to buy them a car... unfortunately the car they wanted was backordered everywhere, so instead of buying them an actual car I told them I would give them the money needed for the car and they could go find one themselves. It wasn't extortion or anything since I was the one that offered, but it sure felt like it to me in the end. That was a promise I made that ultimately cost me \$50,000.

On top of that, I was coerced into buying my eBay contact a plasma TV, a really nice laptop (while I had a crappy TV and crappy laptop of my own... hah), etc. I kept asking if this was "normal", and was only told, "Yes, all the affiliates buy their contacts stuff like this."

Spring 2006

My life started to get very strange. People were finding out how much money I was making by being an eBay affiliate, which made people go a little crazy I think. My servers were getting around 100,000 hack attempts per day, people were showing up on my doorstep from Europe (literally) threatening me with crap if I didn't tell them what I was doing for eBay. My car got stolen from a "secure" parking structure. More than one person found where I was building a house, broke into the development to take pictures and post on their blog, etc.

I didn't like the attention and this was not the life I wanted.

I proceeded to inform eBay that I no longer wanted to participate in the eBay affiliate program... but every time I brought this up with them (which was every time I talked to them at this point), I was guilted into staying, with them asking me to stay "one more month" or "can you just wait until the end of the quarter so it doesn't wreck our numbers?". Finally I REALLY wanted to be done and not strung along anymore and again was guilted into staying with them telling me how many hours they spent getting me a "special rate", etc, etc. and now it would all be for nothing if I was going to quit.

eBay Live! - June 2006

The top affiliates get invited to an eBay affiliate conference that takes place during eBay Live! each year. The conference was in Las Vegas this year and eBay affiliate program managers (along with some other eBay executives) invited me to a "secret meeting/dinner" where I was the only non-eBay employee invited. We had dinner at Mix, a swanky restaurant at THE Hotel.

Who cares, about a private dinner, right? Normally yes, until you get into what the

topic of discussion at this dinner was. This dinner meeting had two main topics... 1. How can I drive more traffic to eBay (always the topic with eBay) as well as something far more interesting.

The Black Budget

One topic that was discussed was eBay secret "black budget". This was described as a large allotment of money that eBay was free to do what they wanted with, without it being reported on accounting sheets (and in turn shareholders). eBay wanted me to REALLY ramp up spamming the web with eBay ads. I told them I wasn't interested at ALL and in fact still wanted to quit the program completely, not "ramp it up". I explained to them that Google was pretty good to me as far as sending me traffic and that I had no interest in spamming Google search results. Then they offered to buy any hardware I wanted with their black budget and get it co-located offshore if I wanted so that no one could trace the spamming back to me or digitalpoint.com. I still told them I wasn't interested.

Then they made it very clear that they have no love for Google at all and would actually pay me whatever I wanted from their black budget to "hurt Google in any way I can". I didn't really understand what they were asking or even why they would want to "hurt Google". I pointed out that Google is not their competitor and hurting Google ultimately would only hurt them in the end since they get traffic FROM Google. Finally they came out and said they were angry at Google because eBay was one of the largest AdWords advertisers and Google recently changed their AdWords pricing to take into account "ad quality" (more on that here) and it was costing eBay exponentially more in advertising dollars. I still wasn't clear exactly what they meant by "hurt Google", and pressed them to be a little more specific. Their answer was, "You are creative... think of anything you can think of and just name your price. Maybe you could figure out a way to take down Google datacenters somehow?" eBay even flew down an executive from their pay per click advertising division to talk about this.

Yeah, no. eBay asking me to engage in cyber-terrorism against Google... thanks, but no thanks. I'm not going down that road.

After I made it blatantly clear that I was not interested in "hurting Google" for any price the topic turned back to how I could drive more traffic to the affiliate program. I told them that I really didn't think there was a way I could drive more traffic. They questioned me about any of the "grey area" stuff I experimented with in the previous summer and if there anything in there that could drive traffic. I told them that it was *possible* to add additional traffic, but the only traffic they could get from that would be non-compliant. Their response was, "As long as you don't show up on compliance reports, it's compliant as far as we are concerned."

Carmen Electra & The Super Bowl

In 2006, I had a new idea for driving traffic to the eBay affiliate program that started as a joke. I had the idea to "Win A Date With Carmen Electra" (or some other person along those lines that would agree to it). The idea entailed running a Super Bowl ad that directed you to a site that passed traffic through to eBay via an affiliate link. My joke became serious when eBay actually wanted me to run the Super Bowl ad. They even went so far as to get special approval from their legal department after I expressed my concern about spending the money to run the ad when they could decide they didn't want to do it (or pay the commissions on it) after I already foot the bill. There wasn't enough time to get it ready for the Super Bowl that winter (and eBay was rather annoyed I couldn't do it that year).

Fall 2006

I don't recall the exact time, but I believe it was in the fall of 2006. I showed up on Ben Edelman's monthly compliance report again, and this time he was absolutely furious with eBay employees about it. What *I* heard is that during the conference call with the eBay affiliate managers, he did a lot of yelling and screaming about why I was still participating in the eBay affiliate program when I should have been terminated last time I showed up on his report.

eBay's response to him? "We'll take care of it."

eBay's response to me? "Ben can only cross reference affiliates by PID. Please change your PID in case you show up on Ben's report in the future." Yep, that's right... eBay only wanted me to change my tracking ID so Ben Edelman couldn't see it was an affiliate that was on his report in the past.

Private Jets

eBay knew I was not driven by the money (clearly since I told them constantly I didn't want to participate in the program any longer and that I would do what I did

for eBay for 1% of what they were paying). They ended up getting creative to keep me interested in the program for the last year. Going so far as to trying to get clearance so I earned hours on a private jet instead of commissions (even if those commissions were worth more, it was more interesting to me).

Rover

In the fall of 2006 eBay was switching over to their in-house rover links and I was very slow to switch my links to rover. I didn't see a point in it really... the old links were working just fine. They were oddly insistant that I move my links to rover, but would never actually tell me why. Their refusal to tell me why made me not want to do it, so we went around and around for months with this. I told them I would switch my links to rover as soon as they told me why it's so important. Finally they said it was important to them because traffic going through rover links had no compliance checking.

The End

In June of 2007, my affiliation with eBay ended. And truthfully, I was very happy about it (in the previous year, nearly every communication I had with eBay, I would bring up the fact I didn't want to participate in the eBay affiliate program any longer), so it was an easy way out without them begging/pleading that I stay in the program "just a little longer".

eBay's Numbers

eBay was clearly driven somehow by the overall commissions paid out to affiliates. There were months where their numbers would be "low", so they would give retroactive bonuses out to all (or at least the top) affiliates for the previous month, and were constantly upping the payout rate to affiliates (which is odd only because they had no real competition).

I suspect eBay's management staff within the affiliate program were probably getting quarterly bonuses based on how much commissions were paid out to affiliates.

Non-Compliant Traffic

eBay's "favorite" traffic source back then was also technically violating their own terms of service. Cloaking search engines via server-side redirects was the thing they loved the most. But again... they stated their terms of service acted more like a scapegoat they could point to when their partners (notably Google) would question them about it.

So What Happened?

This part is purely speculation, but the feeling I get is that someone higher up in eBay got wind of what their affiliate program managers were doing and encouraging affiliates to do and "cleaned house". I heard a rumor that the majority of the top 100 eBay affiliates were axed at the same time I was. I also heard a rumor that the eBay affiliate program managers inside the company were also "let go" (or at the very least relocated to different departments) at the same time. Did it have something to do with Meg Whitman's (eBay's CEO at the time) departure from eBay? Who knows, but I can only assume eBay knew of Meg Whitman's departure at least a few months before it was official and started to bring in the new management team. It would all coincide with a timeline of someone from the new management team looking deep into how things were run.

So if someone higher up wanted to "clean up the department", what do you do after you get rid of most of your top affiliates and replace the internal employees running the department? You take your previous top affiliate (me) and attempt to make an example out of them. In the course of this lawsuit, eBay has even said it's not about the money.

Okay, So Why The District Attorney Then?

Off the record, one FBI agent told me that they (personally) thought this whole thing was a waste of their resources, and was a civil matter between eBay and myself. Politics is politics, eBay is eBay and coincidentally one of eBay's civil lawyers used to work in the district attorney's office. ☺

Updated Aug 5th 2010 at 2:41 pm by digitalpoint

Tags: ebay

Categories: Affiliate Programs

« Prev Main Next »

Comments